

NOTICE TO INTERESTED PARTIES

This solicitation is provided to you for information purposes only and **is not an official document**. If submitted as an offer, the State Procurement Office (SPO) will not accept it as a valid offer. It will be automatically rejected **and will not be considered for award**.

To obtain an official copy of the solicitation (evidenced by the procurement officer's signature), including any addenda to the document, interested party must contact the SPO, telephone (808) 586-0573; facsimile (808) 586-0570; or by e-mail at robert.zamarron@hawaii.gov. Please provide name of company, address, phone number, fax number, and name of contact person. Unless party provides the SPO with its Fedex (or equivalent) account number, the document will be sent by U.S. Postal Service first class mail.

STATE PROCUREMENT OFFICE

LEGAL AD DATE: August 22, 2003

INVITATION FOR BIDS

No. IFB-04-010-OK

SEALED OFFERS

TO

Furnish and Deliver Two Sports Utility Vehicles
(One to be Alternative Fuel Vehicle)

FOR

DEPARTMENT OF AGRICULTURE
Division of Plant Industry

WILL BE RECEIVED UP TO AND OPENED AT 2:00 P.M. (HST) ON

SEPTEMBER 3, 2003

IN THE STATE PROCUREMENT OFFICE, KALANIMOKU BUILDING, 1151 PUNCHBOWL STREET, ROOM 416, HONOLULU, HAWAII 96813. DIRECT QUESTIONS RELATING TO THIS SOLICITATION TO MS. CAROLDYNNE YAMASHITA, TELEPHONE 808/586-0566, FACSIMILE 808/586-0570 OR EMAIL AT carol.yamashita@hawaii.gov.

Robert J. Governs, CPPB
Procurement Officer

Name of Company

IFB-04-010-OK

12/10/01

Furnish and Deliver Two (2) Sports Utility Vehicles
(one to be Alternative Fuel Vehicle) for the
Department of Agriculture, Plant Industry Division
IFB-04-010-OK

Procurement Officer
State Procurement Office
State of Hawaii
Honolulu, Hawaii 96813

Dear Sir:

The undersigned has carefully read and understands the terms and conditions specified in the Specifications and Special Provisions attached hereto, and in the General Terms and Conditions dated September 1, 1995 by reference made a part hereof and available upon request; and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof.

The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

Date: _____

Respectfully submitted,

Telephone No.: _____

Fax No.: _____

e-mail Address: _____

(X) _____
Authorized Signature (Original)

Payment address, if other than street
address at right:

Name and Title (Please Type or Print)

Exact Legal Name of Company

Hawaii General Excise Tax Lic. I.D. No.:

Street Address

Social Security or Federal I.D. No.:

City, State, Zip Code

If offeror shown above is a "dba" or a "division" of a corporation, furnish the exact legal name of the corporation under which the contract, if awarded, will be executed:

Offeror is: ___ Individual ___ Partnership ___ Corporation ___ Joint Venture

State of incorporation: Hawaii _____ Other _____

The following offer is hereby submitted to furnish and deliver, **f.o.b. destination**, the following vehicle in accordance with the specifications herein:

1. One (1) new 2003 model or later, alternative fuel (E-85) Ford Explorer:

Unit Bid Price \$_____ f.o.b. destination

Manufacturer: _____

Model: _____ Production Year: _____

For delivery on **Oahu** to: Hawaii Department of Agriculture
Division of Plant Industry
Pesticides Branch
1428 South King Street
Honolulu, Hawaii 96814

2. One (1) new 2003 model or later, Ford Explorer or Nissan Xterra or equal:

Unit Bid Price: \$_____ f.o.b. destination

Manufacturer: _____

Manufacturer: _____

Model: _____ Production Year: _____

For delivery on **Kauai** to: Hawaii Department of Agriculture
Division of Plant Industry
Pesticides Branch
4398A Pua Loke Street
Lihue, Hawaii 96766

Service and Repair Facility. Bidder shall furnish the following information:

	On the island of Oahu:	On the island of Kauai:
Name	_____	_____
Address	_____	_____
Phone No.	_____	_____
Fax No.	_____	_____
Contact Person	_____	_____

Chapter 437, HRS, License No.: _____

Offeror: _____
Company Name

SPECIFICATIONS

I. General Specifications

The vehicles required herein are to be funded with federal funds. These funds expire September 30, 2003.

To comply with the Energy Policy Act of 1992 (Public Law 102-486, October 24, 1992) the vehicle for Oahu (Item 1) shall be flexible-fuel vehicles designed to run on varying blends of unleaded gasoline with ethanol.

In addition to minimum specifications herein for Items 1 and 2, the following requirements shall form a part of these specifications:

- a. Vehicle offered shall include any other standard features not listed but detailed in manufacturer's brochures and deemed necessary for the proper and safe operation of vehicle.
- b. Manufacturer's standard warranty and warranty documents. Warranty period shall begin from the date vehicle is placed in service and shall be for a minimum period of three (3) years, 36,000 miles or for the period guaranteed by the manufacturer, whichever is longer.
- c. Operator training shall be provided at each delivery location by a manufacturer's representative upon delivery of each unit at the location specified herein. Each vehicle awarded shall be completely serviced and in full operational condition upon delivery. Contractor shall provide a two (2) copies of the owner-operator manual and two (2) copies of the maintenance/parts manual at the time vehicle is delivered to each location.
- d. Each vehicle awarded shall include and comply with all Federal Motor Vehicle Safety Standards. Vehicle shall also comply with the Code of Federal Regulations, Title 40, Part 85: Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines, Environmental Protection Agency.
- e. Accessory equipment installed on the vehicle shall be fully guaranteed by the Contractor against defects resulting from the use of defective or inferior materials or from neglect workmanship or against all design and manufacturing defects. Warranty period shall begin from the date vehicle is placed in service and shall be for a minimum period of three (3) years, 36,000 miles or for the period guaranteed by the manufacturer, whichever is longer except for after factory rustproofing which will be for a minimum Five (5) years, unlimited mileage requirement warranty. Warranty documents shall be delivered with the vehicle and shall detail manufacturer's obligation and warranty procedures. Contractor shall replace or repair defective material and/or workmanship at no cost to the State for parts and labor during the warranty period, provided such defects are not due to abuse or negligence on the part of the State.
- f. All vehicle(s) offered shall meet ANSI and OSHA safety requirements, and any other Federal or State safety requirements.

II. Specifications for Item 1

The following are the minimum specifications to furnish and deliver one (1), new 2003 or later production model, Alternative Fuel Ford Explorer Sports Utility Vehicles, 4-wheel drive, f.o.b. destination:

Department of Agriculture
Division of Plant Industry
Pesticides Branch
1428 S. King Street
Honolulu, Hawaii 96814

Contact: Dean M. Yoshizu Telephone: (808) 973-9413

1. MODEL YEAR: 2003 or later, 4-wheel drive or All Wheel Drive
2. MODEL: Ford Explorer
3. WHEEL BASE: 113.7 inches
4. ENGINE: **All vehicles shall comply with the U.S. Department of Energy's Energy Policy Act of 1992 (EPACT) requirements for Alternative Fuel Vehicles. All vehicles shall be Flexible Fuel vehicles with a common fuel tank designed to run on E-85 and gasoline.** 4.0 liter, V-6, 210 horsepower
5. TRANSMISSION: 5-speed Automatic overdrive
6. TRANSFER CASE: 2-speed transfer case
Part-time 4-wheel drive, or All Wheel Drive
7. STEERING: Power or power assisted
Front stabilizer bar
8. BRAKES: Power or power assisted
Front disc minimum
4-wheel anti-lock brake system
9. TIRES and WHEELS: 16-inch minimum on/off highway tread radial tires mounted on steel or cast aluminum wheel rims
Full size spare tire mounted on carrier under vehicle
Jack and wheel wrench
10. AXLE: FRONT: Automatic locking hubs
REAR: Standard axle ratio with heavy-duty shocks and **limited slip differential**
11. INTERIOR: 5-passenger seating capacity
Bucket front seats
Dual front air bags (SRS)
Air conditioning
AM/FM radio
Front and rear floor mats
Standard vinyl or cloth upholstery
Factory gauge package
12. EXTERIOR: 4-door model
Dual outside mirrors
Factory tinted glass all windows
Factory installed skid plates

- | | | |
|-----|--------|---|
| 13. | COLOR: | White, manufacturer's standard colors |
| 14. | OTHER: | Operator's manual
36 month / 36,000 miles warranty |

III. Specifications for Item 2

The following are the minimum specifications to furnish and deliver of one (1), new 2003 or later production model, Sports Utility Vehicle, 4-wheel drive, f.o.b. destination. SUV to be Ford Explorer or Nissan Xterra or equal.

Department of Agriculture
Division of Plant Industry
Pesticides Branch
4398a Pua Loke Street
Lihue, Hawaii 96766

Contact: Dean M. Yoshizu Telephone: (808) 973-9413

- | | | |
|-----|---------------------------|--|
| 1. | MODEL YEAR: | 2003 or later, 4-wheel drive or All Wheel Drive |
| 2. | MODEL: | Ford Explorer or Nissan Xterra or equal |
| 3. | WHEEL BASE: | 104 inches |
| 4. | ENGINE: | 3.3 liter, V-6 |
| 5. | TRANSMISSION: | Automatic |
| 6. | TRANSFER CASE: | 2-speed transfer case
Part-time 4-wheel drive, or All Wheel Drive |
| 7. | STEERING: | Power or power assisted
Front stabilizer bar |
| 8. | MINIMUM GROUND CLEARANCE: | 8.5 inches,
curb weight minimum |
| 9. | BRAKES: | Power or power assisted
Front disc minimum
4-wheel anti-lock brake system |
| 10. | TIRES and WHEELS: | 16-inch minimum on/off highway tread radial tires mounted on steel or cast aluminum wheel rims
Full size spare tire mounted on carrier under vehicle
Jack and wheel wrench |
| 11. | AXLE: FRONT:
REAR: | Automatic locking hubs
Standard axle ratio with heavy-duty shocks and limited slip differential |
| 12. | INTERIOR: | 5-passenger seating capacity
Bucket front seats
Dual front air bags (SRS)
Air conditioning
AM/FM radio
Front and rear floor mats
Standard vinyl or cloth upholstery
Factory gauge package |

13. EXTERIOR: 4-door model
Dual outside mirrors
Factory tinted glass all windows
Factory installed skid plates
14. COLOR: White, manufacturer's standard colors
15. OTHER: Operator's manual
36 month / 36,000 miles warranty

SPECIAL PROVISIONS

TERMS AND ACRONYMS USED HEREIN

Bidder or Offeror	=	Any individual, partnership, firm, corporation, joint venture, or other entity submitting directly or through a duly authorized representative or agent, a bid for the good, service, or construction contemplated.
GET	=	General Excise Tax
GTC	=	General Terms and Conditions dated September 1, 1995 and issued by the SPO.
HAR	=	Hawaii Administrative Rules
HRS	=	Hawaii Revised Statutes
IFB	=	Invitation for Bids
Procurement Officer	=	The contracting officer for the State of Hawaii Procurement Office.
RFP	=	Request for Proposals
SPO	=	State Procurement Office of the State of Hawaii, located at 1151 Punchbowl Street, Room, 416, Honolulu, Hawaii 96813; P. O. Box 119, Honolulu, Hawaii 96810-0119.

SCOPE

The furnishing and delivering of the Sports Utility Vehicles as described herein for the Department of Agriculture, Plant Industry Division, shall be in accordance with these Special Provisions, the attached Specifications, and the GTC, included by reference and available at the SPO, the Department of Accounting and General Services District Offices on Hawaii, Maui and Kauai, and on the SPO website: <http://www2.state.hi.us/bidfiles/spogtgs.pdf>.

FEDERAL FUNDS AS RECEIVED (100%)

It is understood and agreed to by all bidders that the contract resulting from this Invitation for Bids shall be construed to be an agreement to pay the obligation under the contract only out of federal funds to be received from the federal government when the federal funds are so received and shall not be construed as a general agreement to pay such obligation at all events out of any funds other than those which are received from the federal government.

CONTRACT ADMINISTRATOR

For the purposes of this contract, Mr. Dean Yoshizu, Department of Agriculture, Plant Industry Division, or his duly appointed representative is designated Contract Administrator. Mr. Yoshizu's telephone number is (808) 973-9413 and facsimile number is (808) 973-9418.

OFFEROR'S AUTHORITY TO BID

The State will not participate in determinations regarding an offeror's authority to sell a product. If there is a question or doubt regarding an offeror's right or ability to obtain and sell a product, the offeror shall resolve that question prior to submitting a bid. If an offeror offers a product that meets the specifications, is acceptable and the price submitted is the lowest price offered, the contract will be awarded to that offeror.

OFFEROR QUALIFICATIONS

Service Facility. At the time of bidding, the offeror shall have an established place of business with reasonable inventory of replacement parts and shop facility for repairing and servicing the vehicles offered. Such facility shall be located on the island of Oahu for Item 1 and on Kauai for Item 2.

If the offeror does not have a facility on island where the vehicle will be delivered, he shall arrange with a company on the island to provide the State with repair services, and shall furnish the name and address of this facility in the space provided on the Offer Form. The State reserves the right to inspect the offeror's repair and service shop to determine acceptability under this requirement. Failure on the part of the offeror to meet this requirement shall result in rejection of bid.

State License. Chapter 437, HRS, as amended, provides for regulating and licensing of motor vehicle manufacturers and distributors and their branches and representatives, motor vehicle dealers, salesmen, auctions and auctioneers and any other persons engaged in the business of selling or purchasing motor vehicles in the State of Hawaii. Therefore, all prospective offerors who are interested in selling vehicles to the State of Hawaii shall provide proof that they do meet and satisfy the licensing requirement set forth in said statute by listing the license number in the space provided on the Offer Form.

Chapter 437-2(e) provides that, notwithstanding any provisions of Chapter 437, the authority of any State agency to purchase motor vehicles for State use from any dealer licensed under this chapter shall not be limited or conditioned. Any dealer licensed under this chapter may sell vehicles to any State agency notwithstanding section 437-2(b).

"Motor vehicle" includes any vehicle, motor vehicle, or truck, as defined in Sections 249-1, HRS, as amended, except for tractors, trailers and amphibious vehicles.

BID PREPARATION

Offer Form, Page OF-1. Offeror is requested to submit its offer using offeror's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable; and to indicate exact legal name in the appropriate space on Offer Form, page OF-1. Failure to do so may delay proper execution of the contract.

The authorized signature on the first page of the Offer Form shall be an original signature in ink. If unsigned or the affixed signature is a facsimile or a photocopy, the offer shall be automatically rejected unless accompanied by other material, containing an original signature, indicating the offeror's intent to be bound.

Tax Liability. Work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS, and if applicable, taxable under Chapter 238, HRS. Vendors are advised that they are liable for the Hawaii GET at the current 4% rate and the applicable use tax at the current 1/2% rate. If, however, an offeror is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, offeror shall state its tax exempt status and cite the HRS chapter or section allowing the exemption.

Taxpayer Preference. For evaluation purposes, pursuant to §103D-1008, HRS, the offeror's tax-exempt price offer submitted in response to an IFB shall be increased by the applicable retail rate of general excise tax and the applicable use tax. Under no circumstance shall the dollar amount of the award include the aforementioned adjustment.

Bid Quotation: f.o.b. Destination. Unit bid price shall include all applicable taxes (including the Hawaii GET), labor, materials, parts, freight and transportation charges, and any cost incurred to deliver the required vehicle(s) to the destination(s) specified herein. The unit bid price shall include any instructional training in the use of the vehicle and its equipment.

Tax Clearance. Pursuant to §103D-328, HRS, successful Offeror shall be required to submit a tax clearance certificate issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS).

To facilitate this requirement, Offeror is urged to submit a valid tax clearance certificate together with the offer. However, if this is not feasible, the certificate should be applied for at DOTAX or the IRS and submitted to the SPO as soon as possible. If a valid certificate is not submitted on a timely basis prior to award of the contract, an offer otherwise responsive and responsible may be rejected and not considered for award.

The certificate is valid for six months from the most recent approval stamp date on the certificate. The certificate must be valid on the date it is received by the SPO.

The tax clearance certificate shall be obtained on the State of Hawaii, DOTAX *TAX CLEARANCE APPLICATION* Form A-6 (rev. 1998) which is available at the DOTAX and IRS offices in the State of Hawaii or the DOTAX website, and by mail or fax:

DOTAX Website (Forms & Information): <http://www.state.hi.us/tax/tax.html>

DOTAX Forms by Mail: (808) 587-7572
1-800-222-7572

DOTAX Forms by Fax: (on Oahu) (808) 587-7572
(outside Oahu) (808) 678-0522

Completed tax clearance applications may be mailed to one of the district tax offices listed on the application or faxed to one of the following numbers:

IRS:		(808) 541-1976
DOTAX:	Oahu	(808) 587-1720 or (808) 587-1488
	Maui	(808) 984-8522
	Kauai	(808) 274-3461
	Hawaii	(808) 974-6300

(If mailed, out-of-state offerors should send their application to DOTAX Oahu District Office.)

The application for the clearance is the responsibility of the Offeror and must be submitted directly to the DOTAX or IRS, and not to the SPO.

SUBMISSION OF OFFER

Offers shall be received at the SPO, 1151 Punchbowl Street, Kalanimoku Building, Room 416, Honolulu, Hawaii 96813, no later than the date and time stated on the cover page of the IFB. Timely receipt of offers shall be evidenced by the date and time registered by the SPO time stamp clock. Offers received after the deadline shall be returned unopened.

If the offeror chooses to deliver its offer by United States Postal Service (USPS), please be aware that the USPS does not deliver directly to Room 416. This may cause a delay in receipt by the SPO and the offer may reach the SPO after the deadline, resulting in automatic rejection.

BRAND NAME(S) AND MODEL NUMBER(S)

Offeror shall identify on the appropriate Offer Form page(s) the exact brand(s) or manufacturer name(s) and product model number(s), order number(s) or other identifier(s) of the vehicle and its components he proposes to furnish. Failure to do so or the inclusion of remarks such as "as specified" may be sufficient grounds for rejection of bid. If any of the called for elements or product information are missing from the offeror's offer the State will not be able to determine from the information given whether the product is acceptable or not.

No offeror will be allowed to clarify product identification after bid opening. This is to ensure that all offers are submitted under the same conditions with no opportunity for one offeror to have an advantage over any other offeror after exposure of offers.

Any alteration(s) or modification(s) made to the model(s) offered shall be identified by the offeror. Offeror shall ensure that full product warranty/guarantee shall apply to altered or modified model(s).

Brochures and/or Specifications Literature. The burden of proof as to the quality and suitability of the vehicle offered to the specifications stated herein is on the offeror. Accordingly, offeror shall submit brochures and/or specifications literature verifying that the vehicle offered conforms to the specifications. If and when requested, offeror shall at his own expense, within seven (7) calendar days from date of State's request, furnish any additional information necessary or relating thereto, and/or exact sample of the vehicle being considered for award. The State will be the sole judge as to the comparative quality and suitability of the vehicle offered and its decision will be final.

METHOD OF AWARD

Award(s), if any, shall be made to the responsive, responsible offeror(s) submitting the lowest total sum bid price for each item.

Act 52, SLH 2003, amended §103D-310, HRS, by adding subsection (c) which, in part, follows:

"(c) All offerors, upon award of contract, shall comply with all laws governing entities doing business in the State, including chapters 237, 383, 386, 392, and 393, and shall:

- (1) Be incorporated or organized under the laws of the State; or
- (2) Be registered to do business in the State as a separate branch or division that is capable of fully performing under the contract."

At the release of this solicitation, implementation of the law is pending guidance from the Departments of Labor and Industrial Relations and Commerce and Consumer Affairs. Should guidance be received and implemented prior to award of this contract, the prospective awardee will be required to comply.

TIE BIDS

Should the low bids from responsive, responsible offerors be identical in price, award, if any, will be determined by the drawing of lots.

EXECUTION OF CONTRACT

No performance or payment bond shall be required for this contract.

For awards totaling in excess of \$25,000, the State shall forward to the successful Offeror a formal contract to be signed by the Contractor and returned within ten (10) days in accordance with Section 3.3 of the GTC. No work is to be undertaken by the Contractor prior to the commencement date specified on the Notice to Proceed issued by the State upon execution of the contract by both parties. The State of Hawaii is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official commencement date.

For awards totaling \$25,000 or less, the State reserves the option of issuing a Purchase Order in place of a formal contract. The issuance of a purchase order does not waive compliance with the Specifications, Special Provisions and GTC incorporated in the solicitation. The State of Hawaii is not liable for any work, contract, costs, expenses, loss of profit, or any damages whatsoever incurred by your company prior to receipt of the purchase order.

QUALITY OF VEHICLE

Vehicle furnished under these specifications shall be new, the best quality of its respective kind. Vehicle shall be free from defects that may render it unfit for use. Damaged or rejected items shall be immediately replaced with items of the quality required by these specifications.

Vehicle offered shall include any other standard features not listed herein but detailed in manufacturer's brochures or specifications literature and deemed necessary for the proper and safe operation of the vehicle.

Failure to replace any rejected items shall not relieve Contractor from the responsibility imposed upon him by the contract.

No payment, whether partial or final, shall be construed to be an acceptance of defective materials.

The State may, at any time by written order, stop any work or delivery of specific products not conforming to these specifications. Such stop order shall not relieve the Contractor of his obligation to complete his contract within the contract time limits, nor shall it in any way terminate, cancel or abrogate the contract or any part thereof.

WARRANTY

Vehicle furnished shall be fully guaranteed by the Contractor for a minimum period of three (3) years or 36,000 miles or as warranted by the manufacturer, whichever is longer, following acceptance of proper operation on parts and labor against defects resulting from the use of defective or inferior materials or from negligent workmanship or against all design and manufacturing defects. Warranty period shall begin from the date vehicle is accepted and placed in service. Warranty documents shall be delivered with vehicle and shall detail manufacturer's obligation and warranty procedures. Contractor shall replace or repair defective material and/or workmanship at no cost to the State for parts and labor during the warranty period, provided such defects are not due to abuse or negligence on the part of the State.

All of the Contractor's or manufacturer's usual warranties shall become a part of the contract, except that the terms and conditions of the contract shall prevail in cases of conflict.

DELIVERY

Contractor shall furnish and deliver the vehicles specified herein within one hundred twenty (120) calendar days of the official start date on the Notice To Proceed. The vehicles shall be delivered to the agencies specified on the attached specifications.

Prior to shipment, the contractor shall contact the appropriate agency to coordinate the delivery arrangements.

CERTIFICATES REQUIRED

The following items shall be submitted upon the vehicle's delivery to its specified location herein:

- a. Hawaii Safety Inspection Certificate (in duplicate) and decal;
- b. Application for Registration of Passenger Carrying Motor Vehicle, Form #DF-L-1 (Rev. 1/84) or its latest revision;
- c. Odometer Certificate;
- d. Notarized Certificate of Bill of Sale
- e. Certificate of Weight and Measures (required if factory furnished vehicle weight is unavailable; e.g., vehicles with post-factory modifications or alterations). Certificate must include make, model number, year and vehicle identification number. Verified weight in pounds must be officially machine-stamped; handwritten weight will not be acceptable.

These certificates are essential for the proper registration and licensing of new vehicles. Therefore, acceptance of and payment for the vehicle delivered will not be made

without submittal of necessary certificates. The Contractor shall be responsible for registering and licensing of this vehicle; this procedure shall be conducted in the County where the vehicle is delivered. Contractor shall provide temporary license plates to be used during the interim period prior to acquisition of State of Hawaii license plates.

DELIVERY EXTENSION

Contractor shall complete delivery within the time specified in the contract. If the Contractor fails to deliver within the time specified, liquidated damages in accordance with the LIQUIDATED DAMAGES provision below shall apply. However, Contractor shall not be held responsible for the delay provided he notifies the Procurement Officer in accordance with GTC Section 6.11 TERMINATION FOR DEFAULT, subsection (D) Excuse for nonperformance or delayed performance, and the reason for the delay is one of the allowable causes for delay as provided for in Section 6.11 (D).

GTC Section 6.11 (D) is amended to include delay due to reason(s) beyond the control of the Contractor as a cause for delay for which the Contractor shall not be deemed to be in default. The Procurement Officer shall be the sole judge of whether such delay is truly beyond the control of the Contractor and whether the extension will be granted. No such extension, however, shall be deemed a waiver of the right of the State to terminate the contract or to assess liquidated damages for delays not covered by specific authorized extension.

Section 6.11 (D), second paragraph, last sentence, is replaced by the following:

"If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the Contractor shall not be deemed to be in default, unless the goods or services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the Contractor to meet the contract requirements."

LIQUIDATED DAMAGES

Refer to Section 6.12 of the GTC. Liquidated damages is fixed at the sum of **FIFTY DOLLARS** (\$50.00) for each and every calendar day the Contractor delays in the completion of any item of this contract after the required date of said completion as stated on the Notice To Proceed.

INVOICING

Original and three (3) copies of the invoice shall be submitted to the address below. Each invoice shall reference the contract number.

Department of Agriculture
Fiscal Office
1428 South King Street
Honolulu, Hawaii 96814-2514
Attention: Ms. Elaine Abe

A tax clearance certificate, not over two months old, with an original green certified copy stamp, must accompany the invoice for final payment on the contract.

PAYMENT

Section 103-10, HRS, provides that the State shall have thirty (30) calendar days after receipt of invoice or satisfactory completion of contract to make payment. For this reason, the State will reject any bid submitted with a condition requiring payment within a shorter period. Further, the State will reject any bid submitted with a condition requiring interest payments greater than that allowed by §103-10, HRS, as amended.

The State will not recognize any requirement established by the Contractor and communicated to the State after award of the contract, which requires payment within a shorter period or interest payment not in conformance with statute.

PROTEST

A protest shall be submitted in writing within five (5) working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers. Further provided that a protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the contract.

The notice of award letter(s), if any, resulting from this solicitation shall be posted on the bulletin board between room 416 and room 420, 1151 Punchbowl Street, Honolulu, Hawaii 96813.

Any protest pursuant to §103D-701, HRS, and Section 3-126-3, HAR, shall be submitted in writing to the Procurement Officer, SPO, 1151 Punchbowl Street, Room 416, Honolulu, Hawaii 96813 or P. O. Box 119, Honolulu, Hawaii 96810-0119.

ADDITIONS, AMENDMENTS AND CLARIFICATIONS TO THE GTC

Additions to the GTC:

Approvals. Any agreement arising out of this offer may be subject to the approval of the Department of the Attorney General as to form, and is subject to all further approvals, including the approval of the Governor, required by statute, regulation, rule, order, or other directive.

Cancellation of Solicitations and Rejection of Offers. The solicitation may be cancelled or the offers may be rejected, in whole or in part, when in the best interest of the purchasing agency, as provided in §§3-122-95 through 3-122-97, HAR.

Confidentiality of Material. All material given to or made available to the Contractor by virtue of this contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.

All information, data, or other material provided by the Offeror or the Contractor to the State shall be subject to the Uniform Information Practices Act, chapter 92F, HRS. The Offeror shall designate in writing to the Procurement Officer those portions of its unpriced offer or any subsequent submittal that are trade secrets or other proprietary data that the Offeror desires to remain confidential, subject to §3-122-58, HAR, in the case of an RFP, or §3-122-30, HAR, in the case of an IFB. The Offeror shall state in its written communication to the Procurement Officer, the reason(s) for designating the material as confidential, for example, trade secrets. The Offeror shall submit the material designated as confidential in such manner that the material is readily separable from the offer in order to facilitate inspection of the non-confidential portion of the offer.

Price is not confidential and will not be withheld. In addition, in the case of an IFB, makes and models, catalogue numbers of items offered, deliveries, and terms of payment shall be publicly available at the time of opening regardless of any designation to the contrary.

If a request is made to inspect the confidential material, the inspection shall be subject to written determination by the Office of the Attorney General in accordance with chapter 92F, HRS. If it is determined that the material designated as confidential is subject to disclosure, the material shall be open to public inspection, unless the Offeror protests under chapter 3-126, HAR. If the request to inspect the confidential material is denied, the decision may be appealed to the Office of Information Practices in accordance with §92F-15.5, HRS.

Nondiscrimination. No person performing work under this Agreement, including any subcontractor, employee, or agency of the Contractor, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

Records Retention. The Contractor and any subcontractors shall maintain the books and records that relate to the Agreement and any cost or pricing data for three (3) years from the date of final payment under the Agreement.

Correctional Industries. Goods and services available through Correctional Industries (CI) programs may be the same or similar to those awarded by competitive sealed bids or proposals. Agencies participating in SPO requirements (price list) contracts may also procure directly from CI and shall not be considered in violation of the terms and conditions of any SPO contract.

Year 2000 Compliance. All appropriate hardware, software, and systems utilized for the work specified herein shall be year 2000 compliant.

Amendments to the GTC:

Subsection 2.1 Competency of Offeror. Paragraph one is rescinded and replaced with the following:

“Prospective Offeror must be capable of performing the work for which offers are being called. Either before or after the deadline for an offer, the purchasing agency may require Offeror to submit answers to questions regarding facilities, equipment, experience, personnel, financial status or any other factors relating to the ability of the Offeror to furnish satisfactorily the goods or services being solicited by the STATE. Any such inquiries shall be made and replied to in writing; replies shall be submitted over the signatures of the person who signs the offer. Any Offeror who refuses to answer such inquiries will be considered non-responsive.”

Subsection 2.5 Preparation of Offer. Paragraph four is rescinded and replaced with the following:

"An Offeror may submit only one offer in response to a solicitation. If an Offeror submits more than one offer in response to a solicitation, then all such offers shall be rejected. Similarly, an Offeror may submit only one offer for each line item (if any) of a solicitation. If an Offeror submits more than one offer per line item, then all offers for that line item shall be rejected."

Subsection 3.1(B) Preference for Hawaii Products. GTC §3.1(B), paragraphs one and two only are rescinded and replaced with the following: "A purchasing agency shall review all specifications in a bid or proposal for purchase from the Hawaii products (HP) list where these products are available; provided that the products: Meet the minimum specifications and the selling price f.o.b. jobsite; unloaded, including applicable general excise tax and use tax, does not exceed the lowest delivered price in Hawaii f.o.b. jobsite; and unloaded, including applicable general excise tax and use tax, does not exceed the lowest delivered price of a similar non-HP by more than: three per cent where class I HP are involved; five per cent where class II HP are involved; or ten per cent where class III HP are involved."

All persons submitting bids or proposals to claim HP preference shall designate in their bids which individual product and its price is to be supplied as a HP.

Where a bid or proposal contains both Hawaii and non-HP, then for the purpose of selecting the lowest bid or purchase price only, the price bid or offered for a HP item shall be decreased by subtracting therefrom: three per cent, five per cent, or ten per cent for the class I, class II, or class III HP items bid or offered, respectively. The lowest total bid or proposal, taking the preference into consideration, shall be awarded the contract unless the bid or offer provides for additional award criteria. The contract amount of any contract awarded, however, shall be the amount of the bid or price offered, exclusive of the preferences."

Subsection 3.1(C) Printing Preference. GTC §3.1(C), paragraphs one and two are rescinded and replaced with the following: "All bids or proposals submitted for a printing, binding, or stationery contract in which all work will be performed in-state, including all preparatory work, presswork, bindery work, and any other production-related work shall receive a fifteen per cent preference for purposes of bid or proposal evaluation."

Where bids or proposals are for work performed in-state and out-of-state, then for the purpose of selecting the lowest bid or evaluating proposals submitted only, the amount bid or proposed for work performed out-of-state shall be increased by fifteen per cent. The lowest total offer, taking the preference into consideration, shall be awarded the contract unless the solicitation provides for additional award criteria. The contract amount awarded, however, shall be the amount of the price offered, exclusive of the preference.

Clarifications to the GTC:

Subsection 2.8 Certification of Offeror Concerning Wages, Hours and Working Conditions of Employees Supplying Services. Section 103-55, HRS, amended by Act 149, SLH 1999, now applies to service contracts in excess of \$25,000 and also excludes professional personnel.

GTCs Not Applicable. Subsections 2.11 and 2.14 of the GTC that apply specifically to the RFP method of source selection are not applicable to IFBs. Also subsections 2.10 and 2.13 that apply specifically to the IFB method of source selection are not applicable to RFPs.